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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/072,425	02/07/2002	Muriel Moser	DECLE55.1C2CD1	4226

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EXAMINER	
ART UNIT	PAPER NUMBER

DATE MAILED: 02/15/2007

Please find below and/or attached an Office communication concerning this application or proceeding.

Notification of Non-Compliant Appeal Brief (37 CFR 41.37)	Application No. 10/072,425	Applicant(s) MOSER ET AL.	
	Examiner G. R. Ewoldt, Ph.D.	Art Unit 1644	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on *07 November 2006* is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file anamended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.

2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).

3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).

4. ☒ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).

5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi))

6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).

7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).

8. ☒ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).

9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).

10. ☐ Other (including any explanation in support of the above items):

See Continuation Sheet.

2/6/09

G.R. EWOLDT, PH.D.
PRIMARY EXAMINER

Continuation of 10. Other (including any explanation in support of the above items):

The method of independent Claims 1, 10, 21, and 31 is not adequately described in the SUMMARY OF THE CLAIMED SUBJECT MATTER. For example, the SUMMARY states that Claim 1 is directed to a fusion of tumor cells with autologous HLA-compatible or allogeneic DCs and cites 6 lines at page 28 of the specification in support. A review of Claim 1 reveals that it comprises a 12 line method for producing a plurality of DC/tumor cell hybrids which induce an anti-tumor response, including numerous other limitations, e.g., sources of the DCs and preparation of a primary culture of tumor cells. A review of the cite at page 28 shows that numerous claim limitations are not disclosed, e.g., a method for producing a plurality of DC/tumor cell hybrids which induce an anti-tumor response and the use of autologous or HLA-compatible DCs. Similar discrepancies are seen with the description of the other independent claims. Thus, neither the SUMMARY in the Brief nor the cite in the specification adequately disclose all of the limitations of the claims.

Regarding the evidence relied upon by Appellant in the appeal, Attachment D, the Moser I declaration from application 09/951,849, is not of record in this application. Neither are Attachments F and G. It is also noted that the Appellant has failed to disclose when U.S. Patent No. 5,851,756, cited at page 17 of the appeal, was made of record.

Finally note that the IDS's filed 9/09/05 and 10/30/06, after final rejection, have not been entered because neither includes an appropriate statement as set forth in 37 CFR 1.97(e), see MPEP 609..